

## **REMARKS**

Claims 2, 5-7, 14, 15, and 17 are pending in the application. Claims 1, 3-4, 8-13, 16, and 18-49 are cancelled.

Claims 2, 5-7, and 14 are rejected under 35 U.S.C. §102(e) as being anticipated by Dorwald et al. (U.S. Patent No. 7,208,497)

Claim 15 is rejected under 35 U.S.C. §103(a) as being unpatentable over Dorwald et al.

Claim 17 stands objected to as being dependent upon a rejected claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

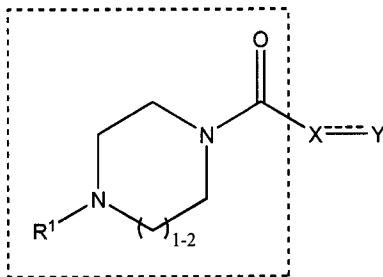
### **Introduction**

Applicants acknowledge receipt of the Final Office Action dated January 7, 2009. No new matter has been added with the present Amendment and Reply. Applicants respectfully request reconsideration based on the remarks presented herein.

### **Rejection Under 35 U.S.C. §102**

Claims 2, 5-7 and 14 stand rejected under 35 U.S.C. §102(e) as being anticipated by Dorwald et al. (U.S. Patent No. 7,208,497). The Examiner contends that Dorwald et al. disclose piperazine-containing compounds that read on the instantly claimed compounds of Formula III recited in claim 2. The Examiner specifically references Example 23, namely 3-(3,5-di-tert-butyl-4-hydroxyphenyl)-1-(4-propyl-piperazin-1-yl)propenone. Applicants respectfully traverse this rejection on the grounds that Dorwald et al. cannot anticipate claims 2, 5-7, and 14, because the cited species does not fall within the genus compounds of Formula III.

The examples contained in the cited reference, including (3-(3,5-di-tert-butyl-4-hydroxyphenyl)-1-(4-propyl-piperazin-1-yl)propenone), do not fall within the scope of compounds encompassed by the genus recited in claim 2. Dorwald et al., disclose compounds of the following general piperazine-containing structure:



See column 8, lines 26-35. The piperazine-containing substituent (i.e., the outlined portion) such as that cited in Example 23 corresponds to the R<sup>6</sup> position of the instant Formula III. Thus, for the compounds disclosed by Dorwald et al. to anticipate the instant claims of Formula III, the definition of R<sup>6</sup> must encompass the piperazine-containing structure illustrated above. Upon closer review, the Examiner will appreciate that R<sup>6</sup> cannot encompass a piperazine-containing structure. While R<sup>6</sup> encompasses the substituent –CH=CH-R<sup>44</sup> where R<sup>44</sup> can be –COR<sup>46</sup>, the definition of R<sup>46</sup> cannot encompass a piperazine-containing structure, in view of the definitions of aryl and alkyl set forth on page 6 of the specification as filed.

Thus, the rejection of claims 2, 5-7 and 14 under 35 U.S.C. §102(e) is without basis. Dorwald et al. fail to disclose the elements of claim 2. Applicants respectfully request withdrawal of the rejection.

#### Rejection Under 35 U.S.C. §103

Claim 15 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Dorwald et al. The rejection rests on the grounds set forth in the rejection under 35 U.S.C. §102(e) above. The Examiner additionally states that Dorwald et al. “teach that aryl, namely phenyl, can be also substituted with one or more of cation containing substituents...” The Examiner then concludes that Dorwald et al. do not specifically mention the use of a cation form but that determination of a “cation” would have been apparent to those skilled in the art under 35 U.S.C. §103.

For the reasons sets forth above, the rejection of claim 15 under 35 U.S.C. §103(a) is also without basis. Further, while not necessary to overcome the rejection in light of the misapplication of Dorwald et al., Applicants also disagree with the Examiner’s assertions regarding a cation form. Applicants respectfully request withdrawal of the rejection.

#### Allowable Subject Matter

Applicants acknowledge the notation in the Office Action that claim 17 stands objected to as being dependent upon a rejected claim but would be allowable if rewritten in independent

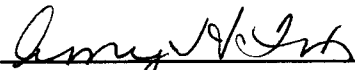
form including all of the limitations of the base claim and any intervening claims. While Applicants do not acquiesce in the propriety of the objection of claim 17, Applicants amend claim 17 to include all of the limitations of claim 2 for purposes of furthering prosecution. Thus, Applicants believe claim 17 is in condition for allowance.

**CONCLUSION**

Applicants believe the claims are in condition for allowance. If there are any questions regarding this Reply or the application in general, Applicants encourage a telephone call to the undersigned in an effort to expedite the prosecution of the application.

Respectfully submitted,

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